

AN ACT concerning imprisonment.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Public Employment Office Act is amended by adding Section 2 as follows:

(20 ILCS 1015/2 new)

Sec. 2. Persons unjustly imprisoned; job search and placement services. Each local office of the Department shall provide each person to whom this Section applies with job search and placement services, including assessment, resume assistance, interview preparation, occupational and labor market information, referral to employers with job openings to which the person is suited and referral to such job training and education program providers as may be appropriate and available through the partnering agencies with which the local office is affiliated. This Section applies to a person who has been discharged from a prison of this State if the person received a pardon from the Governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was imprisoned or he or she has received a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure.

Section 10. The Court of Claims Act is amended by changing Sections 8, 11, 22, and 24 and by adding Section 24.5 as follows:

(705 ILCS 505/8) (from Ch. 37, par. 439.8)

Sec. 8. Court of Claims jurisdiction. The court shall have exclusive jurisdiction to hear and determine the following matters:

(a) All claims against the State founded upon any law of the State of Illinois or upon any regulation adopted thereunder by an executive or administrative officer or agency; provided, however, the court shall not have jurisdiction (i) to hear or determine claims arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act, or claims for expenses in civil litigation, or (ii) to review administrative decisions for which a statute provides that review shall be in the circuit or appellate court.

(b) All claims against the State founded upon any contract entered into with the State of Illinois.

(c) All claims against the State for time unjustly served in prisons of this State when ~~where~~ the person ~~persons~~ imprisoned received ~~shall receive~~ a pardon from the governor stating that such pardon is issued on the ground of innocence of the crime for which he or she was ~~they were~~ imprisoned or he or she received a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil

Procedure; provided, the amount of the award is at the discretion of the court; and provided, the court shall make no award in excess of the following amounts: for imprisonment of 5 years or less, not more than \$85,350 ~~\$15,000~~; for imprisonment of 14 years or less but over 5 years, not more than \$170,000 ~~\$30,000~~; for imprisonment of over 14 years, not more than \$199,150 ~~\$35,000~~; and provided further, the court shall fix attorney's fees not to exceed 25% of the award granted. On or after the effective date of this amendatory Act of the 95th General Assembly, On December 31, 1996, the court shall make a one-time adjustment in the maximum awards authorized by this subsection (c), to reflect the increase in the cost of living from the year in which these maximum awards were last adjusted until 1996, but with no annual increment exceeding 5%. Thereafter, the court shall annually adjust the maximum awards authorized by this subsection (c) to reflect the increase, if any, in the Consumer Price Index For All Urban Consumers for the previous calendar year, as determined by the United States Department of Labor, except that no annual increment may exceed 5%. For ~~both the one-time adjustment and the subsequent~~ annual adjustments, if the Consumer Price Index decreases during a calendar year, there shall be no adjustment for that calendar year. The transmission by the Prisoner Review Board or the clerk of the circuit court of the information described in Section 11(b) to the clerk of the Court of Claims is conclusive evidence of the validity of the claim. The changes made by this

amendatory Act of the 95th General Assembly apply to all claims pending on or filed on or after the effective date. ~~The changes made by Public Act 89-689 apply to all claims filed on or after January 1, 1995 that are pending on December 31, 1996 and all claims filed on or after December 31, 1996.~~

(d) All claims against the State for damages in cases sounding in tort, if a like cause of action would lie against a private person or corporation in a civil suit, and all like claims sounding in tort against the Medical Center Commission, the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy; provided, that an award for damages in a case sounding in tort, other than certain cases involving the operation of a State vehicle described in this paragraph, shall not exceed the sum of \$100,000 to or for the benefit of any claimant. The \$100,000 limit prescribed by this Section does not apply to an award of damages in any case sounding in tort arising out of the operation by a State employee of a vehicle owned, leased or controlled by the State.

The defense that the State or the Medical Center Commission or the Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or the Board of Trustees of the Illinois Mathematics and Science Academy is not liable for the negligence of its officers, agents, and employees in the course of their employment is not applicable to the hearing and determination of such claims.

(e) All claims for recoupment made by the State of Illinois against any claimant.

(f) All claims pursuant to the Line of Duty Compensation Act.

(g) All claims filed pursuant to the Crime Victims Compensation Act.

(h) All claims pursuant to the Illinois National Guardsman's Compensation Act.

(i) All claims authorized by subsection (a) of Section 10-55 of the Illinois Administrative Procedure Act for the expenses incurred by a party in a contested case on the administrative level.

(Source: P.A. 93-1047, eff. 10-18-04.)

(705 ILCS 505/11) (from Ch. 37, par. 439.11)

Sec. 11. Filing claims.

(a) Except as otherwise provided in subsection (b) of this Section and subsection (3) of Section 24, the claimant shall in all cases set forth fully in his petition the claim, the action thereon, if any, on behalf of the State, what persons are owners thereof or interested therein, when and upon what consideration such persons became so interested; that no assignment or transfer of the claim or any part thereof or interest therein has been made, except as stated in the petition; that the claimant is justly entitled to the amount therein claimed from the State of Illinois, after allowing all just credits; and that claimant believes the facts stated in the petition to be true. The petition shall be verified, as to statements of facts, by the affidavit of the claimant, his agent, or attorney.

(b) Whenever a person has served a term of imprisonment and has received a pardon by the Governor stating that such pardon was issued on the ground of innocence of the crime for which he or she was imprisoned, the Prisoner Review Board shall transmit this information to the clerk of the Court of Claims, together with the claimant's current address. Whenever a person has served a term of imprisonment and has received a certificate of innocence from the Circuit Court as provided in Section 2-702

of the Code of Civil Procedure, the clerk of the issuing Circuit Court shall transmit this information to the clerk of the Court of Claims, together with the claimant's current address. The clerk of the Court of Claims shall immediately docket the case for consideration by the Court of Claims, and shall provide notice to the claimant of such docketing together with all hearing dates and applicable deadlines. The Court of Claims shall hear the case and render a decision within 90 days after its docketing.

(Source: Laws 1945, p. 660.)

(705 ILCS 505/22) (from Ch. 37, par. 439.22)

Sec. 22. Every claim cognizable by the Court and not otherwise sooner barred by law shall be forever barred from prosecution therein unless it is filed with the Clerk of the Court within the time set forth as follows:

(a) All claims arising out of a contract must be filed within 5 years after it first accrues, saving to minors, and persons under legal disability at the time the claim accrues, in which cases the claim must be filed within 5 years from the time the disability ceases.

(b) All claims cognizable against the State by vendors of goods or services under "The Illinois Public Aid Code", approved April 11, 1967, as amended, must file within one year after the accrual of the cause of action, as provided in Section 11-13 of that Code.

(c) All claims arising under paragraph (c) of Section 8 of this Act must be automatically heard by the court ~~filed~~ within 120 days ~~2 years~~ after the person asserting such claim is either issued a certificate of innocence from the Circuit Court as provided in Section 2-702 of the Code of Civil Procedure ~~discharged from prison~~, or is granted a pardon by the Governor, whichever occurs later, without the person asserting the claim being required to file a petition under Section 11 of this Act, except as otherwise provided by the Crime Victims Compensation Act. Any claims filed by the claimant under paragraph (c) of Section 8 of this Act must be filed within 2 years after the person asserting such claim is either issued a certificate of innocence as provided in Section 2-702 of the Code of Civil Procedure, or is granted a pardon by the Governor, whichever occurs later.

(d) All claims arising under paragraph (f) of Section 8 of this Act must be filed within one year of the date of the death of the law enforcement officer or fireman as provided in Section 3 of the "Law Enforcement Officers and Firemen Compensation Act", approved September 30, 1969, as amended.

(e) All claims arising under paragraph (h) of Section 8 of this Act must be filed within one year of the date of the death of the guardsman or militiaman as provided in Section 3 of the "Illinois National Guardsman's and Naval Militiaman's Compensation Act", approved August 12, 1971, as amended.

(f) All claims arising under paragraph (g) of Section 8 of

this Act must be filed within one year of the crime on which a claim is based as provided in Section 6.1 of the "Crime Victims Compensation Act", approved August 23, 1973, as amended.

(g) All claims arising from the Comptroller's refusal to issue a replacement warrant pursuant to Section 10.10 of the State Comptroller Act must be filed within 5 years after the issue date of such warrant.

(h) All other claims must be filed within 2 years after it first accrues, saving to minors, and persons under legal disability at the time the claim accrues, in which case the claim must be filed within 2 years from the time the disability ceases.

(i) The changes made by this amendatory Act of 1989 shall apply to all warrants issued within the 5 year period preceding the effective date of this amendatory Act of 1989.

(j) All time limitations established under this Act and the rules promulgated under this Act shall be binding and jurisdictional, except upon extension authorized by law or rule and granted pursuant to a motion timely filed.

(Source: P.A. 86-458.)

(705 ILCS 505/24) (from Ch. 37, par. 439.24)

Sec. 24. Payment of awards.

(1) From funds appropriated by the General Assembly for the purposes of this Section the Court may direct immediate payment of:

(a) All claims arising solely as a result of the lapsing of an appropriation out of which the obligation could have been paid.

(b) All claims pursuant to the "Law Enforcement Officers and Firemen Compensation Act", approved September 30, 1969, as amended.

(c) All claims pursuant to the "Illinois National Guardsman's and Naval Militiaman's Compensation Act", approved August 12, 1971, as amended.

(d) All claims pursuant to the "Crime Victims Compensation Act", approved August 23, 1973, as amended.

(e) All other claims wherein the amount of the award of the Court is less than \$5,000.

(2) The court may, from funds specifically appropriated from the General Revenue Fund for this purpose, direct the payment of awards less than \$50,000 solely as a result of the lapsing of an appropriation originally made from any fund held by the State Treasurer. For any such award paid from the General Revenue Fund, the court shall thereafter seek an appropriation from the fund from which the liability originally accrued in reimbursement of the General Revenue Fund.

(3) From funds appropriated by the General Assembly for the purposes of paying claims under paragraph (c) of Section 8, the court must direct payment of each claim and the payment must be received by the claimant within 60 days after the date that the funds are appropriated for that purpose.

(Source: P.A. 92-357, eff. 8-15-01.)

(705 ILCS 505/24.5 new)

Sec. 24.5. Applicability. This amendatory Act of the 95th General Assembly shall apply to causes of action filed on or after its effective date.

Section 15. The Code of Civil Procedure is amended by adding Section 2-702 as follows:

(735 ILCS 5/2-702 new)

Sec. 2-702. Petition for a certificate of innocence that the petitioner was innocent of all offenses for which he or she was incarcerated.

(a) The General Assembly finds and declares that innocent persons who have been wrongly convicted of crimes in Illinois and subsequently imprisoned have been frustrated in seeking legal redress due to a variety of substantive and technical obstacles in the law and that such persons should have an available avenue to obtain a finding of innocence so that they may obtain relief through a petition in the Court of Claims. The General Assembly further finds misleading the current legal nomenclature which compels an innocent person to seek a pardon for being wrongfully incarcerated. It is the intent of the General Assembly that the court, in exercising its discretion as permitted by law regarding the weight and admissibility of

evidence submitted pursuant to this Section, shall, in the interest of justice, give due consideration to difficulties of proof caused by the passage of time, the death or unavailability of witnesses, the destruction of evidence or other factors not caused by such persons or those acting on their behalf.

(b) Any person convicted and subsequently imprisoned for one or more felonies by the State of Illinois which he or she did not commit may, under the conditions hereinafter provided, file a petition for certificate of innocence in the circuit court of the county in which the person was convicted. The petition shall request a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated.

(c) In order to present the claim for certificate of innocence of an unjust conviction and imprisonment, the petitioner must attach to his or her petition documentation demonstrating that:

(1) he or she has been convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence; and

(2) his or her judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either he or she was found not guilty at the new trial or he or she was not retried and

the indictment or information dismissed; or the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois; and

(3) his or her claim is not time barred by the provisions of subsection (i) of this Section.

(d) The petition shall state facts in sufficient detail to permit the court to find that the petitioner is likely to succeed at trial in proving that the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State of Illinois, and the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction. The petition shall be verified by the petitioner.

(e) A copy of the petition shall be served on the Attorney General and the State's Attorney of the county where the conviction was had. The Attorney General and the State's Attorney of the county where the conviction was had shall have the right to intervene as parties.

(f) In any hearing seeking a certificate of innocence, the court may take judicial notice of prior sworn testimony or evidence admitted in the criminal proceedings related to the convictions which resulted in the alleged wrongful incarceration, if the petitioner was either represented by counsel at such prior proceedings or the right to counsel was

knowingly waived.

(g) In order to obtain a certificate of innocence the petitioner must prove by a preponderance of evidence that:

(1) the petitioner was convicted of one or more felonies by the State of Illinois and subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence;

(2) (A) the judgment of conviction was reversed or vacated, and the indictment or information dismissed or, if a new trial was ordered, either the petitioner was found not guilty at the new trial or the petitioner was not retried and the indictment or information dismissed; or (B) the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois;

(3) the petitioner is innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and

(4) the petitioner did not by his or her own conduct voluntarily cause or bring about his or her conviction.

(h) If the court finds that the petitioner is entitled to a judgment, it shall enter a certificate of innocence finding that the petitioner was innocent of all offenses for which he or she was incarcerated. Upon entry of the certificate of innocence, the clerk of the court shall transmit a copy of the

certificate of innocence to the clerk of the Court of Claims, together with the claimant's current address.

(i) Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or information or acquittal that occurred before the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the effective date of this amendatory Act of the 95th General Assembly. Any person seeking a certificate of innocence under this Section based on the dismissal of an indictment or information or acquittal that occurred on or after the effective date of this amendatory Act of the 95th General Assembly shall file his or her petition within 2 years after the dismissal.

(j) The decision to grant or deny a certificate of innocence shall be binding only with respect to claims filed in the Court of Claims and shall not have a res judicata effect on any other proceedings.

Section 99. Effective date. This Act takes effect upon becoming law.